



California Energy Commission

DOCKETED

02-REN-1038

TN # 69468

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February 6, 2013

Chairman Robert B. Weisenmiller, Ph.D.
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Renewable Portfolio Standard (RPS) - Docket No. 11-RPS-01 and 02-REN-1038

Dear Chair Weisenmiller and Commissioners:

On behalf of the Coalition For Renewable Natural Gas, Inc., thank you for the opportunity to comment on the Concept Paper proposed by the Commission's staff, relative to implementation of AB 2196 (Chesbro). We look forward to working with you, your colleagues, staff and stakeholders throughout the balance of the public hearing and rule-making process.

As you know, AB 2196 is the product of a deliberative regulatory and legislative process that garnered much attention, warranted lengthy debate, and enormous concessions that resulted in true compromise over the course of nearly twelve months.

Though we are unaware of any party or interest who is fully satisfied with the final version of AB 2196, all parties involved in the negotiation process assented in the eleventh hour of the recent legislative session to the final version of the bill chaptered into law - including the Coalition.

To fully understanding the intent of AB 2196, which initially failed on the Senate Floor, one must understand the broader legislative context, in terms of biomethane policies addressed in the recent 2011-12 Legislative Session.

AB 1900 = support for the development of California's in-state biomethane resources, including transportation of biomethane via common carrier pipeline

AB 2196, Section 399.12.6(a) = an affirmation for biomethane contracts' RPS and PPC eligibility if executed in the specified time window

AB 2196, Section 399.12.6(b) = an attempt to ensure that future biomethane contracts do not receive PCC credit unless the source is inside California, or used in on-site generation or transported via a dedicated pipeline.

Rudimentary as it is, understanding the policy concept from this 10,000 foot level may be the most helpful recommendation we can provide.

Because AB 2196 was double-joined to AB 1900, the rule-making process in the implementation of one bill must consider the implications of those rules on the goals of the other. Thankfully, we note and applaud staff's discernment for acknowledging this link throughout their analysis and white paper proposal.

To be fully transparent, we are displeased with the statutory outcome of subsection (b). Nonetheless, our industry is prepared to move forward with certain restrictions on "out-of-state" sourced biomethane for RPS purposes, so long as the in-State market is developed (goals of AB 1900), and existing contracts executed in good faith under the laws and rules in place at the time they were executed are honored fully (a linch-pin provision and only reason the Coalition agreed to support AB 2196 when it was granted reconsideration after first failing on the Senate Floor).

Overall, we believe Ms. Zocchetti, did an exceptional job with the AB 2196 Concept Paper, especially given the bill's complexities. Her proposals hold true to the statute (regardless of what we or others might wish the statute would say instead) and her rationales are well articulated. She makes appropriate inferences when called for, but does not take license where it is not granted, rendering only a plain reading of the code and context. We urge your adoptions of her reasonable proposals.

One of the more difficult provisions of subsection (b) is addressed in the Concept Paper's #14. Staff questions in Section D seem to acknowledge this difficulty, which we attribute to a lack of clarity in the code language. Specifically, Section 399.12.6(b)(3)(A) refers to a "*common carrier pipeline that physically flows within California.*" Here, even the staff proposal clarification that this refers to biomethane "delivered through a common carrier pipeline that physically flows *within California's geographic borders...*" leaves us uncertain about the practical implementation.

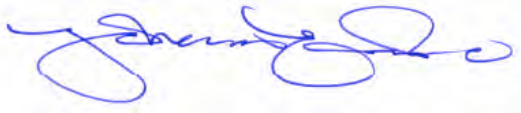
Perhaps the Commission could further clarify how they intend to treat common carrier pipelines that extend *within California and beyond* the state's borders. Although there are few pipelines this clarification might impact (according to the Commission's natural gas pipelines map at http://www.energy.ca.gov/maps/infrastructure/Natural_Gas_Pipelines.pdf), the practical implications are nevertheless important for some transactions.

We assert that an appropriate interpretation of this statutory language would include a pipeline that has physical pipe infrastructure, at least in part, inside California's geographic borders, and that the pipe contain either and or both natural gas and biomethane that is physically flowing inside the geographic borders of California.

With regard to Section D's *Outstanding Issues and Questions*, we acknowledge the complexity of the issues raised and thank staff for asking the questions. In lieu of providing written comment at this time, we have begun organizing technical expert testimony for the Commission's benefit at the next appropriate public workshop, hearing or meeting as scheduled.

Once again, we look forward to continuing to work with you to ensure California's energy policies support the public's interest and reflect a strong, diverse renewable energy portfolio.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Johannes D. Escudero', with a stylized, cursive script.

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